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1 NANCY O. DIX (Bar No. 129150)  
2 **DLA PIPER LLP (US)**  
3 555 Mission Street, Suite 2400  
4 San Francisco, CA 94105-2933  
5 Telephone: 415.836.2500  
6 Facsimile: 415.836.2501

7 ERIK R. FUEHRER (Bar No. 252578)  
8 KRISTA A. CELENTANO (Bar No. 279526)  
9 **DLA PIPER LLP (US)**  
10 2000 University Avenue  
11 East Palo Alto, CA 94303-2214  
12 Telephone: 650.833.2000  
13 Facsimile: 650.833.2001

14 Attorneys for Movants,  
15 ANIMAL LEGAL DEFENSE FUND  
16 EMILY BALLUS  
17 CHRISTOPHER McFALL  
18 and EILEEN McFALL, PH.D.

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**UNITED STATES BANKRUPTCY COURT**  
**EASTERN DISTRICT OF CALIFORNIA**  
**SACRAMENTO DIVISION**

In re:  
CITY OF STOCKTON, CALIFORNIA  
Debtor.

CASE NO. 12-32118  
DC No. DLA-01  
Chapter 9

**MOTION TO APPROVE STIPULATION  
BETWEEN THE CITY OF STOCKTON  
AND ANIMAL LEGAL DEFENSE FUND,  
EMILY BALLUS, CHRISTOPHER  
MCFALL, AND EILEEN MCFALL FOR  
RELIEF FROM THE AUTOMATIC STAY**

Date: January 28, 2014  
Time: 9:30 a.m.  
Place: Courtroom 35  
501 I Street, 6<sup>th</sup> Floor  
Sacramento, CA 95814

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MOTION TO APPROVE STIP. FOR RELIEF  
FROM THE STAY (STOCKTON ANIMAL  
SHELTER); NO. 12-32118

1 Animal Legal Defense Fund, Emily Ballus, Christopher McFall, and Eileen McFall  
2 (collectively, “Plaintiffs”) hereby file this motion (the “Motion”) pursuant to Local Bankruptcy  
3 Rule 4001-1 for entry of an order approving the *Stipulation Between the City of Stockton and*  
4 *Animal Legal Defense Fund, Emily Ballus, Christopher McFall, and Eileen McFall for Relief*  
5 *from the Automatic Stay* (the “Stipulation”). A true and correct copy of the Stipulation is attached  
6 hereto as **Exhibit A**. The Stipulation confirms the agreement of the City of Stockton (“City”) and  
7 the Plaintiffs that 1) the automatic stay of 11 U.S.C. § 362(a) or the additional automatic stay of  
8 11 U.S.C. § 922(a) does not bar the Plaintiffs’ ability to bring writs of mandate and request for  
9 injunctive relief in the Superior Court for the County of San Joaquin against the City of Stockton  
10 Animal Services Division (“Animal Services”); the City of Stockton Animal Shelter (“Shelter”);  
11 Pat Claerbout, in her capacity as Animal Services Supervisor; and DOES 1 through 10, inclusive  
12 (collectively, the “Defendants”) (the “Non-Bankruptcy Action”) related to Defendants alleged  
13 ongoing pattern and practice of animal abuse and alleged failure to follow state and local law at  
14 the Shelter that they operate in Stockton, or 2) if the Court finds that the automatic stay applies to  
15 the Non-Bankruptcy Action, upon the Order, the Plaintiffs shall be granted relief from the  
16 automatic stay provided for in section 362(a) of Title 11 of the United States Code (the  
17 “Bankruptcy Code”) with respect to bringing the Non-Bankruptcy Action.

### 18 **BACKGROUND**

19 Plaintiffs contend, among other things, that since at least February 2008, animals at the  
20 City of Stockton Animal Shelter (“Shelter”) were being prematurely and/or wrongly euthanized.  
21 Plaintiffs seek relief from the automatic stay in order to allow them to bring writs of mandate and  
22 request for injunctive relief in the Superior Court for the County of San Joaquin against the  
23 Defendants. If granted, the writs of mandate will direct Defendants to provide Plaintiffs with  
24 complete copies of records responsive to all outstanding records requests and to immediately  
25 cease and desist from violating certain provisions of the Hayden Act, currently codified in various  
26 places throughout the California Civil Code, the California Food and Agriculture Code, the  
27 California Penal Code, the California Government Code and the Stockton Municipal Code.

1 The injunction will restrain and prevent Defendants from continuing to illegally expend and/or  
2 waste public funds in violation of same.

3 **JURISDICTION AND VENUE**

4 This Court has jurisdiction over this motion and the relief requested pursuant to 28 U.S.C.  
5 § 1334. Venue for the motion is proper in this Court pursuant to 28 U.S.C §§ 1408 and 1409.

6 **RELIEF REQUESTED**

7 By this Motion and pursuant to 11 U.S.C. § 362(d)(1) and 28 U.S.C. § 1334(c), the  
8 Plaintiffs seek an order approving the Stipulation between the City and the Plaintiffs. Pursuant to  
9 the Stipulation, the City has agreed that neither the automatic stay of 11 U.S.C. § 362(a) nor the  
10 additional automatic stay of 11 U.S.C. § 922(a) bars the Plaintiffs’ ability to bring the Non-  
11 Bankruptcy Action, or if the Court does find that the automatic stays apply to the Non-  
12 Bankruptcy Action, the City has agreed to grant the Plaintiffs relief from the automatic stays to  
13 bring the Non-Bankruptcy Action.

14 Approving the Stipulation is appropriate because the Non-Bankruptcy Action involves  
15 purely state law issues arising out of the Stockton Municipal Code, California Civil Code, the  
16 California Food and Agriculture Code, the California Penal Code, the California Government  
17 Code and the Hayden Act. Further, as stated in the Stipulation, Plaintiffs do not seek and will not  
18 seek in the Non-Bankruptcy Action any monetary relief (including but not limited to attorneys’  
19 fees and costs) from the City or from any of the Defendants.

20 WHEREFORE, the Plaintiffs request the court enter an order in the form of the order  
21 attached hereto as **Exhibit B** approving the Stipulation, and granting such other relief as is just  
22 and proper.

23  
24 Dated: January 8, 2014

25 */s/ Erik R. Fuehrer*  
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27 ERIK R. FUEHRER  
DLA PIPER LLP (US)  
Attorneys for Movants

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